



## HAWAII DISABILITY RIGHTS CENTER

900 Fort Street Mall, Suite 1040, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: [info@hawaiidisabilityrights.org](mailto:info@hawaiidisabilityrights.org) Website: [www.hawaiidisabilityrights.org](http://www.hawaiidisabilityrights.org)

### Via Certified Mail, Return Receipt

September 22, 2006

Susanna F. Cheung, President and CEO  
Opportunities for the Retarded, Inc.  
64-1510 Kamehameha Highway  
Wahiawa, Hawai'i 96786

Dear Ms. Cheung:

### Request for Guardian Contact Information (Abuse & Neglect Investigation)

I am in receipt of your September 20, 2006 letter denying HDRC's repeated requests for name and contact information for the legal guardians of persons currently residing or provided day program services by ORI.

There is no requirement that requires HDRC to disclose the factual details of the reported abuse & neglect other than there is an ongoing investigation regarding the reported abuse & neglect. It is clear that HDRC has federal authority to obtain guardian information within the context of an investigation of any suspected case of abuse and neglect. The DD Act regulations require you to promptly disclose the guardian information when you denied HDRC access to records:

If a [P&A] system is denied access to ... records covered by the [DD Act] it shall be provided promptly with a written statement of reasons, including, in the case of a denial for alleged lack of authorization, **the name and address of the legal guardian, conservator, or other legal representative of an individual with developmental disabilities.**

45 C.F.R. § 1386.22(i) (boldface emphasis added). See also Pennsylvania Protection and Advocacy, Inc. v. Royer-Greaves School for the Blind, 1999 WL 179797, \*11 (E.D. Pa) (Limiting P&A services only to persons able to consent to access their records is contrary to the purposes of the DD Act, therefore "all a P&A need to do ... to receive a list of guardians is to ask for it"); Robbins v. Budke, 739 F. Supp. 1479 (D.N.M. 1990).

We have used reasonable efforts to resolve this impasse. If we do not receive the requested guardian contact information within 3 days of your receipt of this letter, we will initiate legal proceedings to enforce our access authority.

### Exhibit "F"



HAWAII'S PROTECTION AND ADVOCACY SYSTEM FOR PEOPLE WITH DISABILITIES  
HAWAII'S CLIENT ASSISTANCE PROGRAM



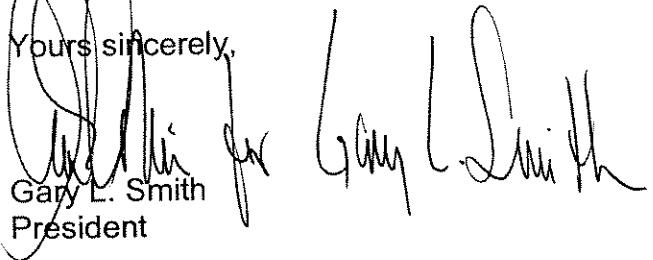
Susanna F. Cheung, President  
September 22, 2006  
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**Intimidation and/or Misinformation of Guardians**

It is sufficient to say that we take any efforts by any ORI staff member including you to impede our investigation by intimidation and misinformation seriously and will take any action legally necessary to enforce our authority.

Yours sincerely,

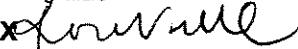
Gary L. Smith  
President

A handwritten signature in black ink, appearing to read "Gary L. Smith". The signature is fluid and cursive, with "Gary" on the left and "L. Smith" on the right.

**U.S. Postal Service™**  
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<b>OFFICIAL USE</b>	
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Return Receipt Fee (Endorsement Required)	1.85
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.65
Postmark Here	
9-22-06	
<p><i>Sent To</i>  <b>Susanna F. Cheung , President - ORI</b>  <small>Street, Apt. No., or PO Box No.</small> 64-1510 Kamehameha Hwy.</p> <p><i>City, State, ZIP+</i>  <b>Wahiawa, Hawaii 96786</b></p>	
PS Form 3800, June 2002      See Reverse for Instructions	

<b>SENDER: COMPLETE THIS SECTION</b>							
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>							
<p>1. Article Addressed to:  <b>Susanna F. Cheung, President &amp; Opportunities for the Retarded, 64-1510 Kamehameha Highway Wahiawa, Hawaii 96786</b></p>							
<b>COMPLETE THIS SECTION ON DELIVERY</b>							
<p>A. Signature  </p>							
<input type="checkbox"/> Agent <input type="checkbox"/> Addressee							
<p>B. Received by (Printed Name)  <b>R. VILLANUEVA</b></p>							
<p>C. Date of Delivery  <b>9/23/06</b></p>							
<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  <small>If YES, enter delivery address below:</small> <input type="checkbox"/> No</p> <p><b>CEO Inc</b></p>							
<p>3. Service Type</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td><input checked="" type="checkbox"/> Certified Mail</td> <td><input type="checkbox"/> Express Mail</td> </tr> <tr> <td><input type="checkbox"/> Registered</td> <td><input checked="" type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td><input type="checkbox"/> C.O.D.</td> </tr> </table>		<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail	<input type="checkbox"/> Registered	<input checked="" type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.
<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail						
<input type="checkbox"/> Registered	<input checked="" type="checkbox"/> Return Receipt for Merchandise						
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.						
<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>							
<p>2. Article Number  <small>(Transfer from service label)</small> <b>7003 2260 0002 0796 0534</b></p>							